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No. 85-139

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

PENNZOIL COMPANY, *et al.*,
Petitioners,

v.

ASSOCIATED GAS DISTRIBUTORS, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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BRIEF FOR THE AMERICAN PAPER INSTITUTE, INC. IN OPPOSITION

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QUESTION PRESENTED

Whether the court of appeals acted within its authority in vacating a FERC remedial order which failed to comply with the court of appeals' prior decision in the same matter?

PARTIES TO THE PROCEEDING BELOW

The petitioners joining in the petition for a writ of certiorari are: Amoco Production Company; ARCO Oil and Gas Company, Division of Atlantic Richfield Company; Champlin Petroleum Company; Chevron U.S.A. Inc.; Cities Service Oil and Gas Corporation; CONOCO Inc.; Exxon Corporation; Gulf Oil Corporation; Mobil Oil Corporation; Mobil Oil Exploration & Producing Southeast Inc.; Mobil Producing Texas & New Mexico Inc.; Pennzoil Company; Phillips Oil Company; Phillips Petroleum Company; Placid Oil Company; Shell Offshore Inc.; Shell Western E&P Inc.; Sun Exploration and Production Company; Tenneco Oil Company; Texaco Inc.; The Superior Oil Company; and Union Oil Company of California.

The respondents are: American Iron and Steel Institute; American Paper Institute, Inc.; Associated Gas Distributors; El Paso Natural Gas Company; Interstate Natural Gas Association of America; Laclede Gas Company; Lone Star Gas Company; Louisiana Land & Exploration Company; Michigan Wisconsin Pipeline Company (now ANR Pipeline Company); Mississippi River Transmission Corporation; Natural Gas Pipeline Company of America; Northern Natural Gas Company; Process Gas Consumers Group; Texas Gas Transmission Corporation; Transcontinental Gas Pipeline Corporation; United Gas Pipe Line Company; Valero Transmission Company; and the Federal Energy Regulatory Commission.

LISTING OF PARENT COMPANIES, SUBSIDIARIES AND AFFILIATES

A list of all members of the American Paper Institute, Inc. and the parent companies, subsidiaries and affiliates of these members engaged in the manufacture of pulp, paper and paperboard products is included in Appendix A hereto.

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Interstate Natural Gas Association of America v. *FERC*, 756 F.2d 166 (D.C. Cir. 1985) ..... *passim*

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All Writs Act, 28 U.S.C. § 1651 (1982) ..... *passim*

IN THE

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OCTOBER TERM, 1985

No. 85-139

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v.

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On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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BRIEF FOR THE AMERICAN PAPER INSTITUTE, INC. IN OPPOSITION

OPINIONS BELOW

The order of the court of appeals granting the mandamus relief requested by Associated Gas Distributors ("AGD") and vacating the relevant portion of Federal Energy Regulatory Commission ("FERC" or "Commission") Order No. 399-A is not reported but has been reproduced at p. 131A of the Appendix to Producers' Petition for a Writ of Certiorari ("Petitioners' Appendix"). The accompanying opinion of the United States Court of Appeals for the District of Columbia Circuit is reported at 756 F.2d 166 (D.C. Cir. 1985) and has also been reproduced at pages 1a-15a of Petitioners' Appendix.

The prior decision of the D.C. Court of Appeals which invalidated a method of measuring Btu (energy) content that resulted in substantial overcharges, and upon which AGD based its mandamus motion, is reported at 716 F.2d 1 (D.C. Cir. 1983), *cert. denied*, —— U.S. ——, 104 S.Ct. 1615 (1983).

Related Order Nos. 399 and 399-A of the Federal Energy Regulatory Commission are reported at 49 Fed. Reg. 37735 (Sept. 26, 1984), and 49 Fed. Reg. 46353 (Nov. 26, 1984), respectively, and are reproduced at pages 16a-126a of Petitioners' Appendix.

JURISDICTION

The judgment of the court of appeals was entered on March 5, 1985. The court of appeals denied petitions for rehearing on May 6, 1985 and suggestions for rehearing *en banc* on May 15, 1985. The petition for certiorari was filed on July 25, 1985. The jurisdiction of this court is invoked under 28 U.S.C. § 1254(1) (1982) and 15 U.S.C. § 3416(a)(4) (1982).

STATUTES INVOLVED

The All Writs Act, 28 U.S.C. § 1651 (1982), grants to the federal courts the authority to issue writs of mandamus "in aid of their respective jurisdictions." Sections 506(a) and (b) of the Natural Gas Policy Act ("NGPA"), 15 U.S.C. §§ 3416(a) and (b), govern judicial review of FERC orders issued under the NGPA.

INTRODUCTION

At the outset, it is important to note that neither the substantive issues relating to the proper method for measuring the Btu content of natural gas, nor the requirement of refunds as a result of past use of an improper Btu measurement method, are presented to this Court by the current petition. The proper method of

calculating Btu content and the need for refunds have already been adjudicated by the D.C. Circuit and this Court has already denied a petition for certiorari on these issues.[1] Only the narrow issue of how those refunds are to be made, and more particularly, the D.C. Circuit's invalidation of a FERC mechanism that would have delayed or hindered the payment of those refunds is now presented.

In ordering the FERC to vacate a set-off mechanism for implementing the refunds necessitated by its previous decision, the court of appeals was acting within its authority and in accordance with settled legal principles. Petitioners have identified neither a conflict between federal circuits nor an important question of federal law warranting the attention of this Court. The American Paper Institute, Inc. ("API") and other natural gas consumers are entitled to receive their long-overdue refunds without further delay.[2]

STATEMENT OF THE CASE

In July of 1980, the FERC issued a regulation allowing the Btu (energy) content of natural gas to be determined on a "dry" (actual delivery) basis for purposes of determining the maximum lawful prices under §§ 102-109 of the Natural Gas Policy Act ("NGPA"), 15 U.S.C. §§ 3312-3319 (1982). Prior to the issuance of this regulation, the Commission, for years, had required that the energy content of natural gas be determined on the "wet" basis which presumed that a standard amount

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[1] Interstate Natural Gas Association of America v. FERC ("*INGAA I*"), 716 F.2d 1 (D.C. Cir.), *cert. denied*, —— U.S. ——, 104 S.Ct. 1615 (1983).

[2] API is the national trade association of the nation's pulp, paper and paperboard manufacturers. API's members are major consumers of natural gas and are significantly affected by the refund policy resulting from use of the improper Btu measurement method.

of water vapor existed in a given volume of natural gas. The change to the dry method of Btu measurement resulted in a higher number of Btus being determined to be in a volume of gas than the number resulting from the wet method.

On review, the court of appeals ordered the FERC to vacate the regulation allowing the use of the dry method in calculating ceiling prices under the NGPA. *INGAA I*, 716 F.2d 1. The court explained:

> "In sum, we find the Commission's dry rule to be inconsistent with the NGPA's language, structure, and legislative history." 716 F.2d at 16.

On remand, the FERC, in Order No. 399, amended its regulations to reinstate the established wet method, thereby "implementing the decision in *Interstate Natural Gas Association of America* v. *Federal Energy Regulatory Commission*." Petitioners' Appendix at 16a. The Commission established procedures for refunding revenues that exceeded the maximum lawful prices. In the proceeding before the Commission leading to Order No. 399, Pennzoil Company and other natural gas producers ("Producers") had urged the Commission to adopt a mechanism whereby amounts that producers were entitled to collect from purchasers under Section 110 of the NGPA, 15 U.S.C. § 3320 (1982), for performing certain production-related services, could be offset against Btu refunds found to be due and owing. In refusing to allow such a set-off mechanism, the Commission stated:

> "permitting section 110 costs and Btu refunds would complicate an already difficult process and would make Commission monitoring of Btu refunds more difficult. In addition, the Commission is concerned that permitting pipelines and first sellers to offset section 110 costs and Btu refunds could prevent the Btu refunds from reaching as many of the customers actually overcharged as possible. Considering that the section 110 orders are also subject to judicial re-

> view, the Commission believes it is more appropriate to segregate the collection of section 110 costs from the Btu refunds. For these reasons, the Commission is prohibiting the offset of section 110 costs and Btu refunds." Petitioners' Appendix at 27a-28a.

Rehearing of this order was sought before the FERC by the Producers who had urged the offset. In Order No. 399-A, the FERC, without providing any refutation of its previous position, reversed its position and required that Btu refunds owed be offset against Section 110 production-related amounts.[3]

Following the issuance of Order No. 399-A, AGD filed in the D.C. Circuit a motion seeking enforcement of that court's mandate in *INGAA I*. API, an intervenor, supported AGD's position that FERC's Section 110 offset procedure was inconsistent with *INGAA I*. On March 5, 1985, the court issued an order that granted AGD's motion and directed FERC to vacate the offset portion of Order No. 399-A. The court also issued a written opinion.[4]

The court of appeals found that one of the "inexorable" consequences of its prior decision was the need to "remedy the effects of past use of the improper pricing method at the earliest possible moment." 756 F.2d at 168. The court added, "more fundamentally, Order No. 399-A defies the teaching of the Supreme Court in *FPC* v. *Tennessee Gas Transmission Co.*, 371 U.S. 145, 83 S.Ct. 211, 9 L.Ed.2d 199 (1962), [in which] the Court held that refunds must be implemented expeditiously." *Id.* at 170-71. Finding that Order 399-A was inconsistent with a basic premise

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[3] The rules establishing the Section 110 cost allowances have recently been affirmed in large part by the Fifth Circuit in *Texas Eastern Transmission Corp.* v. *FERC*, No. 83-4390, slip. op. (5th Cir. August 19, 1985).

[4] *Interstate Natural Gas Association of America* v. *FERC*, 756 F.2d 166 (D.C. Cir. 1985) (*"INGAA II"*).

of the court's prior decision, the court of appeals held that Order 399-A had to be abrogated:

> "the offset scheme embodied in Order No. 399-A will only further delay refund of the overcharges, *circumventing our mandate* in *Interstate* and the clear instruction of the Supreme Court in *Tennessee Gas.* We accordingly grant the relief sought by petitioners Associated Gas Distributors. We hereby direct FERC to vacate the [relevant] portion of Order No. 399-A . . ." 756 F.2d at 171 (emphasis added).

ARGUMENT

I. THE PETITION FOR CERTIORARI SHOULD BE DENIED BECAUSE THE ISSUES RAISED ARE INSUBSTANTIAL.

This case does not present any issues of federal law important enough to warrant this Court's review. This court has already declined to grant certiorari on the merits of the Btu measurement decision. This case merely involves the implementation of that prior decision, the correctness of which is not now brought into question.

In the decision which is the subject of the pending petition, the D.C. Circuit simply directed the FERC to vacate that portion of its order that violated the court's prior decision on the merits. The effect of the Court's decision is to require gas producers to refund overcharges as expeditiously as possible. The refunds are due for natural gas sold as early as December of 1978, the effective date of the FERC's rules implementing the NGPA. Refunds owed to API member companies alone exceed $30 million, and the FERC has estimated that approximately $450 million in Btu refunds were withheld by gas producers to account for Section 110 offsets.

Further, there is no reason to believe that Producers could not recover revenues related to Section 110 costs from purchasing pipelines and other gas users without

the use of an offset. Producers and their pipeline purchasers can recover amounts that the Fifth Circuit has recently determined they are entitled to collect [5] in the manner that gas producers and pipelines have historically used to recover costs: by sending a bill to their customers every month.

In sum, Producers have failed to advance any issue of substantial significance that should lead this Court to grant their petition.

II. THE COURT OF APPEALS CORRECTLY VACATED THE OFFSET PROVISION OF THE FERC'S REFUND SCHEME.

Producers have not argued that the substantive decision of the court of appeals is impermissible; rather, they challenge the procedural route that led to that decision. Producers do not and cannot assert that the judicial review sections which they cite foreclose federal courts from issuing mandates to federal agencies.

A. The Court of Appeals Possessed Full Authority To Issue A Writ of Mandamus.

The All Writs Act provides:

> "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651 (1982).

In *INGAA II*, AGD simply requested the court of appeals to ensure that its *INGAA I* mandate was not violated. Mandamus was "necessary [and] appropriate in aid of [the D.C. Circuit's] jurisdiction."

As described above, the court of appeals in *INGAA I* invalidated the FERC's adoption of the dry method of

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[5] *Texas Eastern Transmission Corp.* v. *FERC*, No. 83-4390, slip op. (5th Cir. August 19, 1985).

calculating Btus because that method was "inconsistent with the NGPA's language, structure, and legislative history." 716 F.2d at 16.[6] This Court declined to grant review of that issue. An inescapable corollary to the invalidation of that method was the need to refund overcharges resulting from the prior use of an unlawful measuring method, *FPC* v. *Tennessee Gas Transmission Co.*, 371 U.S. 145 (1962); *United Gas Improvement Co.* v. *Callery Properties, Inc.*, 382 U.S. 223, 229 (1965), since retention of payments exceeding the NGPA maximum lawful prices is illegal. The court in *INGAA II* merely assured that those refunds owed would be made promptly to those who had been wrongfully overcharged. The *INGAA II* court was therefore correct to enforce its prior mandate.

Producers assert that a writ of mandamus cannot be used to compel adoption of a particular remedy when the agency possesses discretion to determine what remedy, if any, is appropriate (p. 21-22). *INGAA I* did not leave the FERC with boundless discretion. There is no question but that moneys unlawfully collected must be returned. The absence of specific language in *INGAA I* cannot reasonably be construed to indicate that the D.C. Circuit intended to grant to the FERC the discretion to determine when, if ever, the refunds would be paid. As the court made clear in its decision in *INGAA II*, "the law requires the ordering of refunds at the earliest possible moment. That moment has come and gone." 756 F.2d at 171.

B. The Statutory Provisions for Judicial Review of Agency Orders Do Not Render Mandamus Unavailable.

As the court of appeals correctly observed, under the circumstances presented a petition for review and a writ of mandamus were functionally equivalent. While it can

[6] Petitioners do not dispute the finality of that decision. See Petition at 3.

be argued that there is some ambiguity as to whether the court, in granting AGD's motion, was labeling its action a review of Order No. 399-A on the merits or an action under the All Writs Act, or both, the remedy granted and the legal analysis by which the court decided to award that remedy were completely appropriate to the case before it. In the absence of any substantive error, this Court should not now permit further delay by those striving to postpone the refunding of substantial overcharges dating back to 1978 that they were definitively determined to owe in 1983. Moreover, any dispute as to the proper circuit court for review is now moot because the Fifth Circuit has transferred the Producers' petition for judicial review of FERC Order No. 399-A to the D.C. Circuit.[7]

C. The Court of Appeals' Decision Will Not Foster Piecemeal Litigation or Adversely Affect the Established System of Judicial Review.

The facts of this case do not support Producers' claim that the *INGAA II* decision frustrates the Congressional policy favoring a single consolidated judicial review of agency orders. The splintering of issues arose out of the series of multifaceted and contradictory FERC orders and regulations. In any event, with the transfer of Producers' petition for judicial review to the D.C. Circuit, all Btu-related orders have been and are now before a single United States court of appeals.

This case presents a unique procedural history unlikely to be duplicated in the future. The parade of horribles envisioned by the gas producers, who depict disruption of the relationship between federal courts and agencies, is completely unfounded. In this case, the Btu regulation had been reviewed by the D.C. court after parties to that proceeding followed the appropriate judicial review proceedings. The All Writs Act was only available

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[7] The transfer order is included as Appendix B hereto.

because a final decision had already been issued by that court on the substance of the controversy. In this unique setting, the interests of judicial and administrative economy as well as fairness to affected parties dictated that mandamus be available to rectify swiftly the situation. This is especially true where speed in remedying the unlawfulness is of primary importance.

D. Petitioners Were Not Denied Due Process.

Producers have participated in all of the agency and court proceedings. They contend that "consideration of mandamus papers is not adequate to dispose of a case on the merits." (p. 20). But a decision on the merits of the Btu measurement issue had already been rendered by the D.C. Circuit. As that court recognized, the need to remedy immediately the effect of improper pricing was an inexorable result of its decision in *INGAA I*. The simple issue presented to the court of appeals in *INGAA II* was whether the FERC had adequately implemented the *INGAA I* directive.

The D.C. Court was familiar with the record in the case.[8] No new evidence was needed. The Court focused exclusively on the issue relevant to the request that its mandate be enforced. Thus, the court had no need to require the filing of the agency record and did not review the agency decision for arbitrariness or caprice. Instead, an examination of *INGAA II* reveals that the court did indeed review the agency order, but did so in response to a request for relief under the All Writs Act. The court did note the FERC's failure to provide a full and complete explanation for its about-face on the offset issue and stated that "without such an explanation, the agency's decision *may be* arbitrary and capricious," 756 F.2d at 170 (*emphasis added*), but did not decide that issue. The

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[8] The *INGAA II* panel was identical to the panel that decided *INGAA I*.

agency record in Order No. 399-A was thus unnecessary and irrelevant to the court's decisionmaking process. The Section 110 offset portion of Order No. 399-A could not stand because it was inconsistent with *INGAA I*, regardless of whether the FERC arrived at its decision in a non-arbitrary manner.

CONCLUSION

For the reasons set forth above, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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APPENDICES

APPENDIX A

Alabama River Pulp Company, Inc.

Subsidiary of Parsons & Whittemore, Inc.

Alpha Cellulose Corporation
American Convenience Products, Inc.
American Personal Products Company
American Tissue Corporation
Appleton Papers, Inc.

Subsidiary of B.A.T. Industries

Atlas Paper Mills, Inc.
Augusta Newsprint Company
Banner Fibreboard Company
Bear Island Paper Company
Blandin Paper Company
Boise Cascade Corporation

Affiliate: Boise Southern Company

Bowater, Incorporated
J.D. Cahill Company, Inc.
Caraustar Industries, Inc.

Subsidiaries:

Austell Box Board Corporation
Carolina Paper Board Corporation
Carotell Paper Board Corporation
Sweetwater Paper Board Company

Champion International Corporation
Chesapeake Corporation

Divisions:

Plainwell Paper Company
Wisconsin Tissue Mills, Inc.

Chicopee
Cleaners Hanger Company
Climax Manufacturing Company
Columbia Corporation, The
Consolidated Packaging Corporation

Consolidated Papers, Inc.
Container Corporation of America
Continental Paper Company, Inc.
Converting, Inc.
Cottrell Paper Company, Inc.
CPM, Inc.
Crane & Company, Inc.

Subsidiary: Byron Weston Company

Crown Zellerbach Corporation
Crystal Tissue Company, The
Dafoe & Dafoe, Inc.
Deerfield Specialty Papers, Inc.
Dennison Manufacturing Company

Subsidiary: Dunn Paper Company

Dexter Corporation, The
Domtar Specialty Packaging
Duni Corporation
Eastern Fine Paper, Inc.

Division of E.B. Eddy Forest Products, Ltd.

Ecusta Paper & Film Group Olin Corporation
Equitable Bag Company, Inc.
Erving Paper Mills

Subsidiaries:

Baldwinville Products, Inc.
Erving Paper Mills
Flamingo Products Company
Fox Paper Company
Hinsdale Products Company, Inc.
Sorg Products Company, Inc.

Esleek Manufacturing Company, Inc.
Exton Paper Manufacturers, Inc.
Federal Paper Board Company, Inc.
Fibre Leather Manufacturing Corporation
Filtration Sciences, Inc.
Finch, Pruyn & Company, Inc.

Fletcher Paper Company
Fortifiber Corporation
Foster Paper Company
Fox Valley Corporation

Divisions:
Artfaire
Fox River Paper Company

Fraser Paper, Limited
Freeman Paper Company
French Paper Company
FSC Paper Corporation
Garden State Paper Company, Inc.

Affiliate of Media General, Inc.

Georgia-Pacific Corporation
Gilman Paper Company
P.H. Glatfelter Company

Division: Bergstrom Paper Division

W.R. Grace & Company
Great Northern Nekoosa Corporation

Divisions:
Great Northern Paper Company
Great Southern Paper Company

Subsidiary: Nekoosa Papers Inc.

Green Bay Packaging, Inc.

Subsidiary: Arkansas Kraft Corporation

Grief Board Corporation
Gulf States Paper Corporation
Halifax Paper Board Company, Inc.
Halltown Paperboard Company
Hammermill Paper Company

Divisions:
Beckett Paper Company
Hammermill Papers Group
Manning Paper Company

Nicolet Paper Company
Strathmore Paper Company
Thilmany Puly & Paper Company

Affiliate: Grays Harbor Paper Company

Hampden Papers, Inc.
Hazen Paper Company
Heller & Usdan, Inc.
Hercules Incorporated
Hoffmaster Company, Inc.
Hollingsworth & Vose Company
Holliston Mills Inc., The
Holyoke Card & Paper Company
Inland Empire Paper Company
International Paper Company
Interstate Resources, Inc.
ITT Rayonier, Inc.

Affiliate: Grays Harbor Paper Company

Jackson Paper Manufacturing Company
James River Corporation

Divisions:

Curtis Paper Company
Newark Mill
H.P. Smith Division
Dixie/Northern Sector
Berlin-Gorham Group
KVP Group

Subsidiary: Riegel Products Corporation

Jefferson Smurfit Corporation
Jen-Coat, Incorporated
Keyes Fibre Company
Kieffer Paper Mills, Inc.
Laurel Hill Paper Company
Linweave Fine Papers, Inc.
Little Rapids Corporation

Divisions:

Potsdam Paper Company
Shawano Paper Mills

Longview Fibre Company
Louisiana-Pacific Corporation
Ludlow Corporation
Lydall, Inc.

Divisions:

Composite Materials Division
Technical Papers Division

MacMillan Bloedel, Inc.
McIntyre Paper Company, Inc.
Madison Paper Industries
Manchester Board & Paper Company
Manistique Papers, Inc.
Manville Forest Products Corporation
Marcal Paper Mills, Inc.
Mead Corporation

Affiliates:

Brunswick Pulp & Paper Company
Georgia Kraft Company

Subsidiary: Gilbert Paper Company

Menasha Corporation
Menominee Paper Company, Inc.

Subsidiary of Bell Fibre Products Corporation

Merrimac Paper Company, Inc.
Midtec Paper Corporation
Mohawk Paper Mills, Inc.
Monadnock Paper Mills, Inc.
Mosinee Paper Corporation

Divisions:

Bay West Paper Company
The Sorg Paper Company

National Gypsum Company
Newark Group, The

Subsidiaries:

California Paperboard Corporation
Connecticut Paperboard Corporation

Divisions:

Haverhill Paperboard Corporation
Middletown Paperboard Corporation
Natick Paperboard Corporation
Wisconsin Paperboard Corporation

Newman & Company, Inc.
Newton Falls Paper Mill, Inc.
Onduline U.S.A., Inc.

Subsidiary of Garden State Paper Company, Inc.

Orchids Paper Products-Concel Inc.

Subsidiary of APL Corporation
Subsidiary: Ponderosa Paper Products, Inc.

Owens-Illinois, Inc.
Packaging Corporation of America

Division of Tenneco, Inc.
Subsidiary: Tennessee River Pulp & Paper Company

Paper Art Company, Inc.
Paper-Pak Products, Inc.
Parsons Paper Division, The NVF Company
Pejepscot Paper

Division, The Hearst Corporation

Penntech Papers, Inc.
Pentair, Inc.

Subsidiaries:

Flambeau Paper Corporation
Miami Paper Corporation
Niagara of Wisconsin Paper Corporation
Port Huron Paper Corporation

Pope & T bot, Inc.
Portals, Inc.
Port Townsend Paper Corporation
Potlach Corporation
Procter & Gamble Company, The

Subsidiary: Buckeye Cellulose Corporation

Professional Medical Products, Inc.
Putney Paper Company, Inc.
Quaker Oats Company, The
C.A. Reed, Inc.
Riegel Textile Corporation
Rising Paper Company
Rock-Tenn Company
St. Joe Paper Company
Scott Paper Company

Division: S.D. Warren Company
Affiliate: Brunswick Pulp & Paper Company

Seaman Paper Company of Massachusetts, Inc.
Simplex Products Group
Simplex Industries, Inc.
Simpson Paper Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries, Inc.
Southworth Company
Springprint Paper Products Company
Stirling Manufacturing Company, Inc.
Stone Container Corporation

Subsidiary: South Carolina Industries, Inc.

Sullivan Paper Company
Tagsons Papers, Inc.
Technographics, Inc.

Division: Valentine Pulp and Paper Company

Temple-Inland, Inc.

Affiliate: Georgia Kraft Company
Subsidiaries:
Inland Container Corporation
Temple-Eastex, Inc.

Union Camp Corporation
Virginia Fibre Corporation
EHV Weidmann Industries, Inc.

West Carrollton Parchment Company
Weston Paper and Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company

Subsidiary: North Pacific Paper Corporation

Whitestone Products
Willamette Industries, Inc.
Yorktowne Paper Mills, Inc.

Subsidiary: Yorktowne Paper Mills of Maine, Inc.

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-4775

MOBIL OIL EXPLORATION & PRODUCING SOUTHEAST, INC., ET AL.
Petitioner

versus

FEDERAL ENERGY REGULATORY COMMISSION,
Respondent.

No. 85-4485

MOBIL PRODUCING TEXAS & NEW MEXICO, INC., ET AL.,
Petitioner

versus

FEDERAL ENERGY REGULATORY COMMISSION,
Respondent.

On Petition for Review of an Order of the
Federal Energy Regulatory Commission

(August 19, 1985)

Before CLARK, Chief Judge, BROWN, and JOHNSON, Circuit Judges.

BY THE COURT:

It is ORDERED that in the interest of justice the proceedings in No. 84-4775, styled Mobil Oil Exploration & Producing Southeast Inc., *et al.* v. Federal Energy Regulatory Commission, and in No. 85-4485, styled Mobil Producing Texas & New Mexico Inc., *et al.* v. Federal Energy Regulatory Commission, are hereby transferred to the United States Court of Appeals for the District of Columbia Circuit. 28 U.S.C. § 2112(a).